

REMARKS

Statement regarding Sequence Listing

Enclosed herewith is an electronic copy of a Substitute Sequence Listing respectfully submitted in connection with the above-identified application to be inserted into the Specification. This Substitute Sequence Listing corrects the <213> designation as required in the Notice to Comply mailed with the Office Action dated November 29, 2007; it in no way introduces new matter into the specification.

The electronic copy of the Substitute Sequence Listing is named "2008_01_22_Sequence_Listing.txt," and the Substitute Sequence Listing has been filed by EFS-Web, therefore, no paper or CD copy of the Sequence Listing is provided.

No new matter has been entered.

Status of the Claims

Claims 1, 3-12, 14-15 and 17-24 are pending; claims 2, 13, 16 and 25 are canceled; and claims 1, 3-4, 7, 9-10, 17-18, 20 and 24 are amended.

Claims 1, 3-4, 7, 9-10, 17-18, 20 and 24 have been amended so that they do not recite "fragments" of GBP-1 or receptors. These claims have also been amended to recite "antibodies" where "receptors" has been deleted. Support for the antibody limitation is found, for instance, in canceled claim 16.

Claim 1 has been amended to improve grammar and consistent usage of "tissue culture" and "body fluid".

Claim 8 has been amended to remove a redundant word.

Claims 17 and 18 have been amended to depend from claim 1, instead of canceled claim 16.

Claim 20 has been amended to recite "tissue culture," and support for this amendment is found in claim 1.

No new matter has been entered.

1. Claim Rejections under 35 USC Section 112 -- Written Description & Enablement

On pages 4-14 of the Office Action, the Examiner alleges that written description and/or enablement requirements are not satisfied for the claim limitations directed to GBP-1 fragments, receptors and protein labeling.

Applicants disagree with the Examiner for at least the reasons of record set forth in the September 26, 2007 amendment.

Applicants stand by their previous remarks regarding the scope of the present claims. In essence, the Examiner is requiring detailed written description of aspects of the invention, such as how to label proteins, how to determine specific binding of a GBP-1-binding "receptor" and the like that were known in the art at the time the application was filed.

The major aspect of the present invention lies in detection of extracellular GBP-1, either qualitatively ("identifying" in claim 1) or quantitatively (claim 19). Applicants generically describe various ways in which this can be done, using tools known to the skilled artisan at the time the application was filed. The Examiner has not cited prior art that is effective against the invention, and so Applicants are entitled to broad claim scope.

Applicants nevertheless have amended or canceled the claims so that they do not recite the limitations direct to "fragments" of GBP-1, receptors and protein labeling. Accordingly, the written description and enablement rejections are obviated.

2. Claim Rejections under 35 USC Section 112, Second Paragraph

On pages 14-15 of the Office Action, the Examiner maintains the indefiniteness rejection regarding the "receptor" limitation. Despite that this term is well-defined in the specification, Applicants have deleted this limitation from the claims, thereby obviating the rejection.

On pages 15-16 of the Office Action, The Examiner rejected claim 1 as allegedly lacking antecedent basis for reciting "the supernatant of a tissue culture, a sample of the supernatant of a cell culture or a sample of the supernatant of a body fluid." Applicants have amended claim 1 so that it recites "a supernatant of a tissue culture, a sample of a supernatant of a cell culture or a sample of a supernatant of a body fluid;" thereby obviating this indefiniteness rejection.

On page 16 of the Office Action, the Examiner rejected claim 2 as allegedly indefinite for reciting "labeling the proteins." Applicants have deleted claim 2, thereby obviating this rejection.

Last, the Examiner has rejected claim 20 because the limitation "tissue" allegedly lacks antecedent basis. Applicants have amended claim 20 to recite "tissue culture;" thereby obviating this indefiniteness rejection.

4. Conclusion


In view of the foregoing amendment and remarks, Applicants respectfully request immediate allowance of this application, the claims of which define subject matter that meets all that statutory patentability requirements.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell (Reg. No. 36,623) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: May 28, 2008

Respectfully submitted,

By 
Mark J. Nuell, Ph.D.
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
12770 High Bluff Dr., Suite 260
San Diego, CA 92130
(858) 792-8855
Attorney for Applicant